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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/713,617

11/13/2003

David F. Bednarek

1062/D91

2524

73544

7590

10/30/2008

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EXAMINER

MANOHARAN, VIRGINIA

ART UNIT

PAPER NUMBER

1797

MAIL DATE

DELIVERY MODE

10/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/713,617	<b>Applicant(s)</b> BEDNAREK ET AL.	
	<b>Examiner</b> Virginia Manoharan	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,8,12,13,15,18-20,24-32,36,49 and 53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 25-32,36,49 and 53 is/are allowed.
- 6) ☒ Claim(s) 1-4,8,12,13,15 and 24 is/are rejected.
- 7) ☒ Claim(s) 18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 reciting a liquid distillation system according to claim 1 further comprising wherein liquid may be preheated in the sump at start-up provides for ambiguity and confusion with regards to the further element being claimed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8,12-13,15 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1211236 or Huse (3,956,072) in view of Stewart (1,668,532) and Heinio et al (5,340,443) with or without Morris (5,772,850) or Satchwell (3,635,283).

The above references to GB, Huse, Stewart and Heinio are applied for the same combined reasons as set forth at pages 3 and 4 of the previous Office Action.

Heino renders obvious the evaporative condenser comprising a plurality of parallel core evaporator tubes, each tube having a first open end in communication with a sump and a second open end in communication with a head chamber as claimed in claim 1, section b). See the tubes 20, 22, basins 11, 12 and the upper edge with support 14 in Figs. 1 and 2 of the Heinio reference. Satchwell discloses basically similar structural elements as shown in Heino. Note the modular heat exchanger having a core of a plurality of individual core element (col. 1, lines 4-27). Morris shows in Fig. 2 an apparatus with parallel tubes. To incorporate Morris or Satchwell device to the apparatus of GB ' 236 or Huse would have been obvious to one of ordinary skill in the art in order to solve the problem inherent in the prior art configuration. See e.g., col.1, lines 8-19 of the Satchwell's reference.

Claims 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 25-32, 36, 49 and 53 are allowed.

Applicants' arguments filed July 10, 2008 have been fully considered but they are not persuasive.

Contrary to applicants' contention, the claimed "evaporative condenser comprising a plurality of parallel core evaporator tubes, each tube having a first

open end in communication with a sump and a second open end in communication with a head chamber” is not an unobvious subject matter nor is it evidence of criticality in the art as taught by Heinio, Morris or Satchwell, discussed supra.

Thus, in the absence of anything which may be “new” or “unexpected result,” a prima facie case of obviousness has been reasonably established by the art and has not been rebutted. Unexpected results must be established by factual evidence. Mere arguments or conclusory statements in the specification, applicants’ amendments, or the Brief do not suffice. In re Linder, 457 F.2d 506, 508, 173 USPQ 356, 358 (CCPA 1872). In re Wood, 582, F.2d 638, 642, 199 USPQ 137, 140 (CCPA 1978).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Uehara discloses an evaporator with parallel tubes.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Virginia Manoharan whose telephone number is 571-272-1450.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola, can be reached on 571-272-1444.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Virginia Manoharan/  
Primary Examiner, Art Unit 1797

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